

These minutes are a summary of the discussion. The audible recording is available at the following website: <http://bit.ly/T3S7CB>

Planning & Zoning Commission Meeting
Minutes of May 1, 2013
1st Floor North Conference Room - City Hall

Present: Chairman Nathaniel Cannady, Vice-Chairman Jeremy Goldstein, Kristy Carter, Jim Edmonds, Jane Gianvito Mathews, Joe Minicozzi and Holly P. Shriner

Absent: None

Pre-Meeting - 4:30 p.m.

At the pre-meeting of the Planning & Zoning Commission, City Attorney Bob Oast made a formal transition from his direct stewardship of the Commission to Associate City Attorney Jannice Ashley since he is scheduled to retire from the City in July. Appreciation for his long and excellent service was expressed. The Commission then discussed the review process for the first item which would require both an approval vote and a variance, complicated by the factor that the Vice Chairman, Jeremy Goldstein, needed to be recused from the item. Then Planning & Zoning Director Judy Daniel provided an update on upcoming items on the June agenda and highlights from the recent American Planning Association National Conference.

Regular Meeting - 5:00 p.m.

Chairman Cannady called the meeting to order at 5:00 p.m. and informed the audience of the public hearing process.

Administrative

- ? Mr. Edmonds moved to approve the minutes of the April 3, 2013, meeting, with minor amendments. This motion was seconded by Vice-Chairman Goldstein and carried unanimously by a 7-0 vote.
- ? Ms. Shriner moved to continue the request for a Subdivision Modification to the width of a flag lot to allow for the development of a residential lot located on on Starmount Drive to June 5, 2013. This motion was seconded by Ms. Carter and carried unanimously by a 7-0 vote.
- ? At the request of Mr. Richard Fort, one of the developers of the project identified as 291 East Chestnut Street, Vice-Chairman Goldstein moved to continue the conditional zoning request to June 5, 2013. This motion was seconded by Mr. Minicozzi and carried unanimously by a 7-0 vote.

Agenda Items

- (1) **Review of a Level II site plan for the project identified as Western Carolina Rescue Mission located at 221 and 225 Patton Avenue for a 1,320 square foot addition along with the renovation of an existing building for 16 transitional units and overnight facility. The project is also seeking a variance from UDO standards found in section 7-8-18 (f) (13) 'design and operational standards' concerning fenestration requirements. The property owner is Western Carolina Rescue Ministry and the contact is Tad Dotson, AIA. The property is identified in the Buncombe County Tax records as PIN 9648-19-4937. Planner coordinating review – Alan Glines**

At the request of Vice-Chairman Goldstein, Ms. Shriner moved to recuse Vice-Chairman Goldstein from participating in this matter. This motion was seconded by Ms. Mathews and

carried unanimously by a 6-0 vote (Vice-Chairman Goldstein did not vote). At this time, Vice-Chairman Goldstein left the dais and meeting room.

Associate City Attorney Jannice Ashley explained the voting process and said that the Level II project needs to be considered first and if that it approved, the Commission can then consider the variance.

Level II

Urban Planner Alan Glines oriented the Commission to the site location and said that the applicant (Western Carolina Rescue Ministries "WCRM") is requesting review of site plans to renovate two existing buildings at 221 and 225 Patton Avenue located in the downtown Central Business District.

The project site is 1.21 acres located at 221 and 225 Patton Avenue (PIN 9648.19-4937) and is zoned Central Business District (CBD). It is located near the western gateway of I-240 and has operated at this location since at least 1987. The total project square footage is about 37,780 square feet made up of existing buildings (36,460 square feet) and a proposed stair tower addition (1,320 square feet). The threshold for Level II projects in the CBD is 20,000 square feet to 175,000 square feet. Although the majority of the square footage is existing, 221 Patton (totaling 13,864 square feet) has been vacant for a number of years and new higher intensity uses are proposed for the ground level and the upper story. This aligns the project with the Level II review.

The proposal is to completely renovate the 221 Patton Avenue building and provide a separate shelter space for women and children with classrooms and family room spaces on the ground level. In addition renovated overnight space for men will be provided at the rear of the building. On the upper floor 16 semi-independent housing units used as transitional housing will be created. Minor renovations are proposed for the 225 Patton Avenue building to provide additional administrative office space and renovations to the chapel and in-take areas. A new proposed entrance and stair tower totaling 1,320 square feet will join the existing buildings together at the center. The new entrance will be set back from the Patton Avenue sidewalk to provide a waiting space that is out of the sidewalk zone.

The WCRM provides shelter to people in crisis and at times they have to turn people away because they will not abide by the rules of the shelter or other problems (intoxication for example). At times disgruntled people will break out the front windows of the building to retaliate against the shelter. Because of the difficult nature of the operations and fairly common incidents of vandalism, the applicants have submitted a request for a variance from fenestration standards for the ground level windows. The applicant has outlined a request for a variance from the UDO standard that 70% of the length of the building frontage provide windows, doors or other openings at the level of the pedestrian. As an alternative the applicant is proposing three doorways along Patton Avenue and in the spaces for the windows is proposing using hardy board with detailing to mimic glazed openings similar to actual storefront windows. The original façade details will be left intact though so that if the use ever changes, compliant windows could be added. Upper story windows will be provided using the existing openings which meet UDO standards. The Downtown Commission considered the variance request and supported it with a vote of 8-0.

Access is provided from Patton Avenue and the lot is a through lot with frontage onto Haywood Street. An existing driveway along Haywood provides access to the rear of the buildings for deliveries.

Off-street parking is not required in the CBD but some parking spaces are shared with a neighboring parcel to the west.

Landscaping is limited to street trees along Patton Avenue. Two additional street trees are required in addition to the two that are already planted there.

Staff recommends approval. The project meets (or will be able to meet) all technical standards. At their meeting on April 12, 2013 the Downtown Commission reviewed the project and considered the variance request and voted 8-0 to recommend approval.

Mr. Tad Dotson, architect, described the design plans and some of the elevation changes. They propose to bring back the original character of the buildings.

In response Mr. Edmonds, Mr. Michael Woods, Executive Director of the WCRM, explained that with this addition, they can house more women and children. At present they serve 38 women and children and if approved, they can serve 55. On the men's side for the overnight shelter, the number will stay close but they will have better facilities.

When Mr. Minicozzi asked how this will fit in to the 10-Year Plan to End Homelessness, Mr. Woods explained that the Plan is more for the chronic homeless. They are seeing growth in the homeless in two areas (1) women and children; and (2) teenagers. Last month they served the highest number of people in over 32 years.

Chairman Cannady opened the public hearing at 5:19 p.m. and when no one spoke, he closed the public hearing at 5:19 p.m.

Chairman Cannady spoke in support of the project and was pleased they are moving forward in providing this service.

Based on the above findings and the analysis provided in the report, Ms. Mathews moved to recommend approval of the Level II site plan for Western Carolina Rescue Mission for a 1,320 square foot addition along with the renovation of an existing building. This motion was seconded by Mr. Minicozzi and carried unanimously by a 6-0 vote (Vice-Chairman Goldstein was recused).

Variance Request

Associate City Attorney Jannice Ashley explained the procedures for this item which requires the Commission to act as a Board of Adjustment (5 members) and all testimony needs to be sworn. At this time, Chairman Cannady left the room.

Ms. Carter moved to appoint Ms. Mathews as Interim Chair. This motion was seconded by Ms. Shriner and carried unanimously on a 5-0 vote (Chairman Cannady had left the room and Vice-Chairman Goldstein has been recused from this matter).

City Clerk Magdalen Burleson administered the oath of office to anyone who anticipated speaking on this matter.

Ms. Ashley said that the Commissioners must base their decision on this variance on what is presented in this public hearing. Mr. Glines may refer to parts of the previous presentation as staff has made certain findings and conclusions. The Commissioners are free to disregard those and make their own findings and conclusions. She asked that any Commissioner who has any special knowledge of this variance disclose that at this time.

Ms. Ashley also said that the Authorized Practice Committee of the North Carolina State Bar has issued an advisory opinion that appearing in a representative capacity for a party before a local governmental body in a quasi-judicial proceeding is the practice of law, especially with respect to such aspects of the hearing as examining or cross-examining witnesses, or advocating for legal conclusions or results. This does not prevent persons, including land use professionals, from presenting information or expressing opinions within their knowledge or area of expertise.

Ms. Ashley also noted that the Commissioners are not bound by their vote on the previous project.

Mr. Glines said that the applicant is requesting one variance pertaining to fenestration requirements found in the UDO along key pedestrian streets in the Central Business District (CBD):

- ? Section 7-8-18(f)(13)(a.)(5): "For buildings along streets designated as key pedestrian streets, at least 70% of the street level façade is composed of windows doors and other openings."

As the renovation project continues to the existing buildings the applicant is seeking to provide doors along the façade and use a solid surface to avoid actual windows because of propensity for damage from vandalism.

This fenestration requirement is a linear frontage requirement and not an 'area' requirement, to incorporate pedestrian level building features. The building frontage is 138' along Patton Avenue. 70% of this length is a requirement for 97 feet of windows doors and other openings. The applicant is providing 17 feet of doors and openings (17% of 97 feet). The variance requested is a variance for 80 feet (the difference of 97' required and 17' provided) or 83% of the 97' required.

The proposal is to completely renovate the 221 Patton Avenue building and provide a separate shelter space for women and children with classrooms and family room spaces on the ground level. In addition renovated overnight space for men will be provided at the rear of the building. On the upper floor 16 semi-independent housing units used as transitional housing will be created. Minor renovations are proposed for the 225 Patton Avenue building to provide additional administrative office space and renovations to the chapel and in-take areas. A new proposed entrance and stair tower totaling 1,320 square feet will join the existing buildings together at the center. The new entrance will be set back from the Patton Avenue sidewalk to provide a waiting space that is out of the sidewalk space. For the purposed of determining the requirement for fenestration along the frontage area, the project façade is considered a single building.

This project is considered a Level II review pursuant to Section 7-5-9.1 of the UDO.

The front facades are proposed to be completely enclosed except for the doors along the front façade. Upper level windows and other building detailing will be restored or installed during the renovation. Existing original brick work will be retained as a part of this project. Street trees will be provided along Patton Avenue which will meet UDO requirements.

Per the review process in Section 7-5-9.1(b)(10), the Downtown Commission provides a recommendation on all variance requests considered by the Planning & Zoning Commission. The Downtown Commission reviewed the plans and the variance request at their meeting on April 12, 2013 and recommended support with a vote of 8-0.

FINDINGS:

Conclusion 1 - There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance.

Test 1 - If made to comply with the provisions of the ordinance, the property owner cannot make reasonable use of the property.

The standards in place are meant to activate the pedestrian environment and enhance the life of the street. This specific use is a homeless shelter and has

operated at this location since at least 1987. The nature of the use is that it is not conducive to activating the pedestrian environment because it is a secured dorm and special services facility which requires controlled access. The activities and operation of this shelter do not easily fit into the usual regulatory framework in the downtown area. The existing façade areas of the buildings have been armored with solid materials with small windows. After the renovation, the proposed facades will have an improved appearance mimicking a storefront with the use of hardi plans and other detail elements.

Test 2 - The hardship of which the applicant complains results from unique circumstances related to the applicant's land.

The buildings are existing and there are remnants of the original façade openings that were common for mercantile buildings of this period. The use as a homeless shelter goes back many years (early permit notes record a renovation for 225 Patton in 1987 and new signs for both buildings in 1988). A homeless shelter is unique and is unlike other retail, office or eating and drinking establishments such that certain people have to be turned away because of violations of shelter policies (alcohol or other offenses) and these people sometimes damage the building out of anger. The potential for damage in this way is unique to this site and to this use since the use is unique and is the result of the special population served by the shelter.

Test 3 - The hardship is not the result of the applicant's own actions.

The hardship is not the result of the applicants own actions because the use is existing and is operating in older structures that are in need of repair and renovation so that services can be provided to people experiencing homelessness. The damage that is inflicted to the existing windows is not the result of the applicants actions but is the result of disgruntled clients. Armoring the building as a part of the current renovation is a continuation of what was done over the years to protect the frontage area.

Conclusion 2 - The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit.

The ordinance is in place to assure that new buildings and uses address the street and enhance the pedestrian environment. The current use as a shelter is not a use that is designed to encourage pedestrian interaction in the same way that retail or eating and drinking establishments would. The building has to be secured and access controlled. Requesting a variance is appropriate in this instance so that consideration can be made about the actual use and operations of the shelter and their particular and unique challenges in carrying out their mission. Granting the variance does not diminish the value of the ordinance or its applicability for most businesses in the downtown area.

Conclusion 3 - The granting of the variance secures the public safety and welfare and does substantial justice.

The requested variances to fenestration requirements will not compromise public safety or welfare in any way, nor do they impact another property owner's use of their property. Granting the variance secures public safety and welfare and does substantial justice because it addresses the unique hardships that are part of carrying out the special work of the homeless shelter.

The Downtown Commission reviewed the application and supports the variance request. Staff recommends approval of the request for an 83% variance from normal fenestration requirements.

Staff finds this request to be reasonable and support the goals of downtown and other City adopted plans.

Interim Chair Mathews opened the public hearing at 5:29 p.m. and when no one spoke, she closed the public hearing at 5:29 p.m.

Ms. Carter understood the reasoning for the variance request; however, she didn't feel that the population they serve is unique enough to the property given that various other similar organizations in the area have street windows.

Mr. Woods felt that they are unique is that they are serving over 450 a day at that location and 150 people at night. The Salvation Army is the only other shelter in the area. Some people that can't get in the shelter by 6 p.m. are upset and they throw a rock through the window. He has had to replace at least four front windows a year. In the building with overnight shelter for women and children, he does not want to put them in harms way. There will be natural light over the hardie board with smaller windows. He wants the shelter to look inviting, but is also thinking of the safety of the residents there and the cost of window replacements.

When Interim Chair Mathews asked if the the hardie board can be removed and replaced if the building transitions from a homeless shelter to a different use, Mr. Woods replied yes as the openings are still there.

Mr. Edmonds did feel this is a safety concern and felt the architect did a good job of trying to address the concerns.

Mr. Glines responded to Ms. Shriner when she wondered if some of the street trees may help cover some of the solidness of the hardie board.

When Interim Chair Mathews asked about possible graffiti on this blank panel, Mr. Glines said that they would have some surface material that graffiti/tagging could easily be removed or covered over again. Mr. Woods also noted that outside their building they have cameras and they have been able to identify any vandals.

Ms. Shriner moved approve the 83% variance from normal fenestration requirements based on the justifications in this staff report. This motion was seconded by Mr. Edmonds and carried on a 4-1 vote, with Ms. Carter voting "no" (Chairman Cannady did not participate and Vice-Chairman Goldstein was recused).

At this time, Chairman Cannady and Vice-Chairman Goldstein re-entered the meeting room. Ms. Mathews relinquished the gavel to Chairman Cannady.

(2) Request to rezone property located on Thompson Street from River District to Urban Place District. The petitioner is George Morosani, for M Realty, LLC. The property is identified as PIN 9648-81-9209. Planner coordinating review – Blake Esselstyn

Urban Planner Bake Esselstyn oriented the Commission to the site location and said that the subject area is bounded and bisected by noteworthy pathways: the north and south property lines abut the Swannanoa River and the Norfolk Southern Railroad Lines, respectively; Stoner Road abuts the western edge, intersecting Thompson Street, which divides the property. The land between Thompson Street and the river lacks significant development potential, as it is entirely in the floodway, hence the analysis will focus on the area south of Thompson Street.

Despite the higher ground south of Thompson Street, the vast majority of the subject parcel still is identified on the current FEMA flood maps as 100-year floodplain. The applicant has modified the property grades subsequent to the capture of the data on which the current maps are based, but has not yet requested flood map amendments, preferring to wait until the outcome of the rezoning petition and final lot configuration have been determined.

The applicant's request to rezone the property from River District to Urban Place District stems from an interest in a zoning classification that would allow higher residential density (64 units per acre for UP, compared to 16 for River), as well as the other higher-intensity development options that the latter district provides.

The Urban Place District is designed to encourage higher density mixed-use development that is pedestrian friendly and includes special building design considerations similar to other mixed-use districts. The district is expected to foster development and redevelopment of areas with sufficient infrastructure in place to support the uses. Urban Place is expected to be applied to areas faced with blight and neglect and for areas that may have special environmental considerations. The range of permitted uses is broad enough to support compatible infill redevelopment.

The River District is developed to encourage redevelopment of the river areas in a manner that complements the natural environment of the river. The River District is unique in that it allows any use that is not prohibited in the list of uses. The residential density of the River District is relatively low for the nature of the district and the fact that most housing will be multi-family in style.

In early 2007, more than a dozen properties were rezoned from either River or CI (Commercial Industrial) to Urban Place, as an effort to begin implementing the Dykeman Plan by providing the appropriate zoning for the area. These rezoning processes were also accompanied by an ordinance amendment to the Urban Place District section of the ordinance to add environmental standards. About half of the properties involved in the rezoning neighbored the French Broad, but a similar number of the properties were along the Swannanoa, five of them in the vicinity of the subject parcel. The subject property was originally included in one of these rezoning processes, but then withdrawn at the applicant's request.

Three of the parcels rezoned from River to Urban Place were recently rezoned back to River again for the New Belgium project. In that specific case, the reversion was for a specific project (now underway), but there are multiple examples of other speculative zoning requests in recent years elsewhere in Asheville that have had to be later "undone" because they never attracted a buyer/developer. (It should be noted that the successfully completed Mica Village project is on one of the nearby parcels rezoned to Urban Place in 2007.)

In 2007, when the subject parcel was included in the proposed rezoning, the staff recommendation was for approval, and staff maintains the supportive stance today. The proposal is consistent with adopted plans, and the Urban Place district is compatible with surrounding uses. Some capacity for industrial and other high-impact uses would be lost, but staff sees that as a tolerable downside, given the upside of potential for sought-after higher density development of an urban nature.

As of this writing, staff has received no communications from the public regarding the petition in question.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- ? Is suitable for the subject area and consistent with other adjacent and nearby zoning.
- ? Supports the goals of the City Development Plan 2025 related to river-area land use, smart growth concerns, transportation opportunities, potential for economic growth and greenway and environmental features.
- ? Consistent with the Wilma Dykeman Riverway Master Plan.
- ? Could encourage private investment and redevelopment in the subject area.

Con:

- ? High-density development in the flood hazard area, given the undetermined status of future flood maps for this property, could prove to be a challenging proposition.

Staff feels that the proposed zoning change is in keeping with other comparable rezonings in the riverfront areas in the recent past, and is also consistent with current City goals and interests in these areas. Hence, staff recommends approval.

Ms. Carter asked if development were to occur on the property would a driveway access be allowed since it is in the floodway. Mr. Esselstyn understood said that pavement (driveway) would be okay in the floodway, but structures and even a fence can be an issue in the floodway. Ms. Mathews said that they may be other issues; however, those are not relevant to this request.

Ms. Lisa Stevens, representing the applicant Mr. George Morosani, explained that they have modified the property grades and have performed all the background work to determine the exact amount of grading that would be necessary to bring the property out of the floodway area. They will be requesting a flood map revision. They have looked at this property for previous apartment development and the ingress and egress will be on the Stoner Road side and possibly one on Thompson Street. The lower edge of Stoner Road is in the floodway. She noted that any building plans for the site would have to meet the City's floodplain ordinance.

Interim Development Services Director Shannon Tuch responded to Ms. Shriner regarding why the property was zoned River District.

When Mr. Minicozzi asked if this was reviewed by the Riverfront Redevelopment Commission, Mr. Esselstyn replied that it was not as this is only a rezoning request. However, City staff for that Commission has reviewed the staff report and flagged no issues.

Chairman Cannady opened the public hearing at 5:50 p.m. and when no one spoke, he closed the public hearing at 5:50 p.m.

Ms. Carter said that her only concern is flooding, but that is not what is being considered at this meeting.

Vice-Chairman Goldstein felt this meets the goals of the 2025 City Plan for increased density.

Ms. Mathews felt this rezoning is appropriate given the redevelopment of the area. The challenges will be floodplain and site development issues related to the river. However, she felt we will need to address those challenges on any of the river corridors.

When Mr. Minicozzi felt we should hear from the Riverfront Redevelopment Commission about river rezoning issues, Ms. Carter pointed out that the comprehensive way of dealing with this particular issue is the Wilma Dykeman Plan noting this rezoning is consistent with that Plan.

Ms. Mathews noted that there is a riverside redevelopment corridor that will be studied quite extensively. That might be a good template when looking at some of these issues in an

area that currently doesn't have a lot of redevelopment happening, but has new development very close.

Based on the above findings and the analysis provided in the report, Vice-Chairman Goldstein moved to recommend approval of rezoning property located on Thompson Street from River District to Urban Place District. This motion was seconded by Mr. Minicozzi and carried unanimously by a 7-0 vote.

- (3) A request for a Conditional Zoning amendment for the project identified as Asheville Academy located at 1709 Hendersonville Road to facilitate the development of an 8,215 square foot daycare facility. The owner is Racquet Club Partners, LLC and the contact is Clay Mooney. The property is identified as a portion of Buncombe County tax records 9655-08-6769. Planner coordinating review – Julia Fields**

Urban Planner Julia Fields oriented the Commission to the site location and said that this is a request is for an amendment to the conditional zoning approval for Weirbridge Village to allow for child care centers as a permitted use on the commercial portion of the development.

In 2006, 20.66 acres of property located at the corner of Hendersonville Road and Racquet Club Road were conditionally zoned from RM-6 (Residential Multi-Family Low Density Development) District to HBCZ (Highway Business Conditional Zoning) District to allow for the development of a major multi-family housing development (originally proposed for 336 units) with commercial outparcels along Hendersonville Road. As proposed, the commercial portion of the development was shown as suburban commercial outparcels abutting Hendersonville Road. However, as opposed to traditional suburban commercial outparcels where there are separate curb cuts for each outparcel, the developer proposed to access all commercial parcels off of a road (Weirbridge Drive) that runs parallel to Hendersonville Road.

The commercial development was restricted under this approval to no more than five commercial parcels with no commercial parcel being greater than 3 ½ acres in size. No big box stores, night clubs, bars, adult uses or dance clubs are allowed and commercial uses are limited to: financial institutions, pharmacies, restaurants, professional offices, retail sales, bakeries, barber shops and salons, bookstores, medical clinics, delicatessens, florist, gift shops, grocery stores, and health and fitness facilities. No 24-hour uses were permitted other than bank ATMs and pharmacies. Architectural standards were required to be placed on the commercial buildings to require them to mirror the materials in the residential architecture of the residential buildings. No commercial building can be greater than 25,000 square feet GFA in size or greater than 30 feet in height. Outdoor storage is not permitted.

Since the initial conditional zoning approval, four amendments have been approved for the project. One reduced the number of dwelling units from the originally approved 336 to 280 and reconfigured the location and reduced the number of the buildings housing the dwelling units. A second amendment approved a comprehensive sign package for the development. Subsequently, two outparcels (financial institutions) have been developed with access off of Weirbridge Drive. A third amendment provided for a right-turn in/right turn-out access point to the undeveloped portion of the commercial parcel. A fast food restaurant is being developed at this location. A fourth amendment, approved by City Council on April 9, 2013, added menu board signage to the originally approved sign package.

The applicant is now requesting an amendment to the conditional zoning approval to allow child care centers on the commercial portion of the property. This use was not included in the originally approved permitted use listing.

Planning staff concludes that the use itself is very compatible with other uses approved for this development. The central issue for the proposed use is related to traffic – both traffic

impact and safe maneuvering. To address that concern, a traffic study has been conducted for the proposed use and adjoining fast-food restaurant. In addition, the child care center is not open on the weekends or on holidays.

Staff recommends approval of this amendment subject to the conditions noted in the staff report and subject to the recommendations found in the traffic study. The application is in agreement to meeting all the conditions.

There was discussion, initiated by Vice-Chairman Goldstein, about the vehicular traffic pattern to the day care facility. Ms. Fields said that most of the child care center clients are from the southern part of the County and using a diagram of the traffic pattern showed how they will be directed to come in to the center on Weirbridge Drive at the traffic signal and through the parking lot of other properties to the front of the center. There is shared access by all the other properties and you can access the entire commercial portion without having to get back out onto Hendersonville Road.

Mr. Clay Mooney, landscape architect for the project, explained the overall theme of interconnect activity in the project.

There was discussion, initiated by Mr. Minicozzi, about no clear pedestrian path to the child care center from the residential properties nearby. Mr. Mooney showed on a diagram where the crosswalks are located and the pedestrian path which should be used to get to the front of the child care center. Ms. Fields said that the City's Traffic Engineer would be amenable at looking at some type of additional pedestrian crosswalk.

Ms. Mathews said that she had no problem with the child care center use, but was concerned about the traffic pattern and fire access. Ms. Fields replied that the Fire Department did not raise any major issues about fire access.

In response to the Commission, Mr. Mooney said that including the child care center in the allowable uses was just an oversight. He explained that the Asheville Academy has a required orientation session with each parent, at which time the parent will be given a map of the vehicular traffic pattern and the pedestrian path, noting they are trying to minimize any traffic conflicts and increase safety. There is only one public entrance and that is at the front of the child care center. There is a back entrance; however, that is for staff and employee parking. He felt it is safer to route the parents/children through the existing crosswalk and not through the vehicular traffic pattern used for vehicles.

In response to Ms. Mathews, Mr. James Vaso, the developer's traffic engineer, explained that they observed that the McDonalds breakfast crowd does coincide with the child care center morning drop-offs. Also observed was that parents are very cautious around the child care center. He used the diagram to show how the traffic pattern will work.

Chairman Cannady opened the public hearing at 6:19 p.m. and when no one spoke, he closed the public hearing at 6:19 p.m.

Planning & Development Director Judy Daniel said that if the Commission feels strongly about an additional pedestrian access, she felt that they could make a recommendation to City Council to consider that additional access. She said that this action is about the use, not the traffic pattern.

Based on the above findings and the analysis provided in the report, Ms. Shriner moved to approve the request for amendment to the conditional zoning for Weirbridge Village subject to (1) the conditions listed in the TRC staff report, (2) all standard conditions being met; (3) the recommendations found in the traffic study; and (4) the developer consider providing an additional pedestrian crosswalk at some area conducive to pedestrian traffic coming from the

residential area. This motion was seconded by Vice-Chairman Goldstein and carried unanimously on a 7-0 vote.

- (4) A request for a Conditional Zoning from RS-8 Residential Single-Family High Density District and Community Business II District to Community Business II District/Conditional Zoning for the project identified as Biltmore Hill located at 63 Brook Street for the development of a 24,958 square foot mixed use building and a 7,707 square foot 7 unit multi-family building. The owners are 63 Brook St, LLC and 2 Warren Avenue, LLC and the contact is Bryan Moffit, AIA. The property is identified in the Buncombe County tax records as PIN 9647-79-5641, 9647-79-4517, 9647-79-4587, and 9647-79-3754. Planner coordinating review – Jessica Bernstein**

Urban Planner Jessica Bernstein oriented the Commission to the site location and said that the applicant is requesting a Conditional Zoning for four parcels located at 63 Brook Street and 2 Warren Avenue from CBII (Community Business II) and RS-8 (Residential Single-Family High Density District) to CBII – Conditional Zone in accordance with Section 7-7-8 of the UDO, for the construction of a mixed use development.

The project site consists of four separate parcels with a combined area of approximately 1.66 acres with frontage on Brook Street, Reed Street and Warren Avenue in Biltmore Village. The two parcels fronting on Brook and Reed Streets are zoned Community Business II (CBII) and are within the Biltmore Village Historic District Overlay. One parcel along Brook Street is entirely CBII and the other has frontage on both Brook Street and Warren Avenue and is split-zoned with both CBII and RS-8. The rear parcels along Warren Avenue are entirely zoned RS-8. Nearby and adjacent zoning districts include CBII, CBI, CI, Institutional and RS-8.

The site along Brook Street is currently the location of a mostly-vacant single-story commercial strip building (location of Old School Subs & Deli and an auto repair shop) and the site accessed from Warren Avenue contains a single-story residential structure and shed. All existing structures are to be demolished.

With this conditional zoning, the applicant is proposing the construction of two new buildings. Due to the existing grade change dividing the project area, the building sites will function as two separate developments on one parcel. There is no interaction between the two structures and each has separate parking and access.

The larger development is a two-story building placed at the corner of Reed and Brook Streets. This structure is proposed for retail uses along the ground level with six (6) residential units on the second-story (five 2BD units; one 3BD). The building is 30 feet tall (46'5" to tallest roof peak) and has a total area of 24,958 square feet (14,872 square feet is retail use – approximately 4-5 separate retail spaces, depending on final tenants). This building falls under the Historic Resources Commission's (HRC) design review.

The second structure is located above (rather than behind) the mixed-use building and is accessed from Warren Avenue, due to a grade change of approximately 50 feet from Brook Street up to the rear end of the project site. This building is exclusively residential and contains seven (7) two-bedroom units on three levels (four levels when viewed from Brook Street) and a building height of 30 feet – 42'2" to the tallest roof peak. Because of the continuing grade change, the single-family dwelling across the street from the structure will be approximately at the level of the third floor. This building does not require compliance with Biltmore Village design guidelines; however, a lot of the design elements will be incorporated into this building.

The project site currently consists of both RS-8 and CBII zoning classifications. The area zoned RS-8 is approximately half an acre in size, which would permit a maximum of four residential units. With the rezoning, seven units are proposed in this area. The parcels along

Brook Street are already zoned CBII, an area approximately 1.1 acres in size, and would be allowed to have 17 units. The maximum density allowed for the entire rezoned project site is 26 units – 13 are proposed. While a greater number of residential units would be permitted, the topographic challenges are a limiting factor. Also, limiting the number of units in the residential structure will result in a development that is more compatible with the single-family neighborhood across Warren Avenue.

There are two driveway cuts proposed on Brook Street to access the mixed-use building; one provides an entrance only and the second allows for both right and left-turn exit movements. New five-foot wide sidewalks are shown along Brook and Reed Streets. The new sidewalks will be brick, according to HRC design guidelines. There is no access provided within the site between the two buildings, pedestrian or otherwise.

The applicant is proposing improvements within the right-of-way of Brook Street/Sweeten Creek Road with traffic calming and crosswalks similar to what is already in place further east (in front of 10 Brook Street). Additionally, the proposal includes pedestrian crosswalks along the route to the off-site parking

Access to the residential building is from a single driveway off of Warren Avenue. No sidewalks are proposed for Warren Avenue (fee-in-lieu requested). The street is not identified as a needed linkage and proceeds to a dead-end shortly beyond the building side. Additionally, the topography would make construction difficult.

A minimum of 49 spaces is required for the mixed-use building. Plans show parking 21 parking spaces (2 HC accessible) and indicate that 28 additional spaces will be made available at an off-site location (2 Fairview Road) through a shared parking agreement, noting that the parking will be linked to that parcel. Bike parking is included.

The separate parking lot for the residential building includes 10 spaces (1 HC accessible) as well as a bike rack in this location as well.

Landscaping is required on the site and includes a property line buffer along Warren Avenue, street trees on Brook, Reed and Warren, parking lot and building impact landscaping, street buffer and dumpster screening. The property line buffer can be administratively approved for a width reduction due to the existing vertical separation on the lot, according to Section 7-11-3(e)(1).

Since the proposal functions more as two separate developments, open space will be split for this project. The Brook Street portion of the property will be subject to “urban open space” requirements, which is provided via the hardscaped elevated walk as well as green space (five percent or 2,897 square feet required - 4,302 square feet shown on plans). The residential building along Warren Street is subject to “suburban open space” requirements of fifteen percent; provided via the walking path and open area in front of the building (2,157 square feet required – 2,380 square feet provided).

There are significant retaining walls included with for development, up to 26 feet tall in areas, according to conceptual plans. All walls over 8 feet in height will need to comply with aesthetic requirements. Landscaping is required when walls are taller than 6 feet in height and closer than 35 feet to the road (Warren Avenue) and for any portions taller than 20 feet, regardless of proximity to the road (several locations). The appearance of the walls along the lower portion of the site will be reviewed by the HRC.

Because this is a through-lot, a 30 foot, type B property line buffer is required along Warren Avenue as the “secondary frontage.” The UDO allows for administrative approval of

alternative compliance in the event of a vertical separation on the lot greater than 15 feet. The buffer width will be reduced to 15 feet.

The proposal was approved with conditions by the Technical Review Committee on April 1, 2013. A (voluntary) community meeting with representatives from the Biltmore Village Merchants Association was held on April 11, 2013. She has spoke with two adjoining property owners - one was excited about the project; and the other person was concerned about the intersection of Reed and Warren Streets. Both property owners live out of town and were unable to attend this meeting.

Because the portion of the property along Brook Street is within the Biltmore Village Historic District Overlay, design review for compliance with all district guidelines is required. The applicant had a preliminary review with the Historic Resources Commission (HRC) on January 9, 2013, and preliminary comments have been addressed. Upon receiving approval of the conditional zoning request by City Council, the applicant will return to the HRC for final design review.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**
The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.
2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**
This site has a +/- 50 foot grade change from Brook Street up to Warren Avenue which lends itself to dividing the site, as it is in its currently developed state, with retail at the bottom and residential at the top. The proposed improvements will require significant retaining structures to secure the slope, including lower walls around the rear of the Brook Street parking area (the aesthetics of which are subject to design approval by the Historic Resources Commission). There will be larger retaining walls and building foundation walls below the residential building. These retaining structures will be subject to technical review during the building permitting process.
3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
The development is expected to complement the adjacent shops and uses and add to the fabric of Biltmore Village in a valuable way. Roadway improvements will visually extend the Biltmore Village Historic District and will enhance and improve the pedestrian experience. While the apartment building is not entirely consistent with the development pattern in the immediately surrounding neighborhood, the edges of this neighborhood contain larger structures such as office buildings and hotels. The residential use is complementary and is not expected to injure the value of abutting properties.
4. **That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**

The mixed-use building and associated improvements proposed along Brook Street are aligned with nearby development in terms of scope, scale and use. Adherence to the Biltmore Village Design Guidelines ensures visual harmony and compatibility. The residential building is not subject to compliance with the design guidelines, however, like materials and a similar style have been incorporated.

The scale of the residential building on Warren Avenue is greater than the single-family homes immediately across the street. The building is proposed to be three stories in height (when viewed from Warren Avenue) which is 30 feet per UDO definition of building height (and below the maximum height in residential zoning districts). The confronting homes will, however, be approximately at the visual level of the third floor due to the grade change along Warren Avenue. The tallest point on the structure is shown as 42'2" to the highest roof peak.

The potential impact of a taller structure in this location is mitigated by the continuous elevation gain heading south across Warren Avenue. At 2 Warren Avenue (project site), the existing elevation is approximately 2050 feet. Across Warren, the elevation is approximately 2075 feet at the rear of that parcel, gaining 25 feet. Moving further south to the Biltmore Inn property, the elevation is approximately 2105 feet, a gain of more than 50 feet.

5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

Elements of the overall project are directly aligned with the City's goals and objectives including multi-modal transportation elements (sidewalks, bike racks, transit shelter), economic development and residential infill development.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

This site in Biltmore Village place the project in an easily accessible location by car, foot, bicycle and is along an Asheville transit route (SI). The project has been reviewed by the Technical Review Committee and has been found to have adequate access to infrastructure.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

This project proposes offsite parking along Fairview Road and extending the traffic calming medians along Brook Street. A traffic study is being conducted to address the functionality of the additional traffic calming devices and ability of the highway to handle the traffic with them installed. It will also determine if an ADA accessible route can be achieved from the project to the proposed offsite parking location. The project is not expected to create a traffic hazard or undue congestion, pending the results of the traffic study.

Pros:

- ? City goals support mixed-use development, especially providing residential uses in a walkable location proximate to transit
- ? Streetscape and roadway improvements will improve the pedestrian experience
- ? Design review of the Brook Street building by the HRC ensures historic appropriateness to Biltmore Village and aesthetic cohesiveness, extending the "look" of the Village to this eastern edge

Con:

- ? The residential building along Warren Street is a larger scale than the single-story homes immediately across the street (although there are larger, taller structures a couple of blocks within the residential neighborhood).

Based on the above findings, staff recommends approval of the conditional zoning request as requested by the applicant. While the residential building is larger than the homes immediately across Warren Avenue, there are larger structures both within this residential neighborhood as well as larger, non-residential uses along other edges (hotels, offices) and the elevation gain moving into the neighborhood mitigates the visual impact.

In response to Mr. Minicozzi about the large retaining walls, Ms. Bernstein said that because of the grade change, there are significant retaining structures. The walls on Brook Street will be governed by the HRC. She didn't think that the walls have been completely designed yet, but they would be required to comply with the City's standards.

In response to Chairman Cannady, Ms. Bernstein said that she included the following condition for the Commission's approval - The building along Warren Avenue is residential only and may not be used for any commercial purposes.

Ms. Bernstein responded to Ms. Carter when she asked about street improvements, noting that the improvements will continue the visual look of the streetscape as you head south. She said that there are no improvements planned for Warren Avenue.

Mr. Bryan Moffit, representing the developer, explained to Mr. Minicozzi why they preferred not to do more residential. Even though there will be two different permits, there will be only one site plan because the projects needed to work together. He then showed a computer model of the site and project, including various views from different areas. They have already gone through a preliminary HRC review and have already instituted some of the changes internally from that discussion.

Mr. Minicozzi asked about possibly flipping the parking lot with the housing and then running the parking lot parallel with Warren Avenue. Mr. Moffit explained they did consider that but the difficulty is with the grades. The proposed orientation actually minimizes the size of the retaining walls. The shared parking agreement is not deed restricted and are usually written with 3-5 year terms and must be renewed. The shared parking agreement will be tied to the zoning permit.

Chairman Cannady opened the public hearing at 7:04 p.m. and when no one spoke, he closed the public hearing at 7:04 p.m.

Ms. Shriner was concerned about the sharp turn onto Warren Street.

Ms. Mathews liked the addition of the mixed-use building on Brook Street. It is a good project for an underutilized section of Biltmore Village. However, as much as we need housing, to build on steep slopes with large retaining walls takes away from our community. She did not think this location was appropriate for the residential building on Warren Avenue. She too was concerned about the turn onto Warren Street as her car hit the bottom of the pavement.

When Ms. Carter asked if any improvements could be made to Warren Avenue, the City's Traffic Engineer Jeff Moore said that he had not looked at that portion of the street because the impact was so small. They were more concerned about Sweeten Creek Road and the traffic calming. Planning & Development Director Judy Daniel suggested that the Public Works Department provide a comment regarding Warren Avenue before the project is heard before City Council.

Based on the above findings and the analysis provided in the report, Vice-Chairman Goldstein moved to recommend approval of the conditional zoning from RS-8 Residential Single-Family High Density District and Community Business II District to Community Business II District/Conditional Zoning for the Biltmore Hill project located at 63 Brook Street, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to the issuance of any site development permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (5) Any deviation to building design, construction materials and orientation on site from the conceptual site plan and building elevations presented with this application can only be through requirements by the Historic Resources Commission's review (based on Biltmore Village Design Guidelines). Any other deviation from these plans may result in reconsideration of the project by the reviewing boards; (6) Compliance with the Biltmore Village Design Standards for the portion of the property within the overlay is required prior to issuance of a zoning permit; (7) Review and approval of the off-site parking lot (2 Fairview Road) is required prior to final zoning approval (and is required prior to CO); and (8) The building along Warren Avenue is residential only and may not be used for any commercial purposes. This motion was seconded by Ms. Shriner and carried by a 6-1 vote, with Ms. Mathews voting "no".

At 7:20 p.m., Chairman Cannady announced a short recess.

(5) Discussion of Zoning Map Study

There was discussion, initiated by Mr. Minicozzi, regarding the zoning map study. The issue is that there have been some zoning issues of either conflicts of two adjoining zoning districts or of prior areas being zoned for what their use was. Using a model, he showed several areas of the City compared to the scale downtown Asheville. He said that a lot of urban cities are struggling with taking productive taxable land off the tax base. He then showed a map of Asheville's value per acre. In Boston, the City negotiated with all of their non-taxable entities to give a contribution to the City (payment in lieu of taxes), e.g., the university acknowledged that students have accidents that require public safety services. In our 2025 Plan it talks about the City getting master plans from UNC-Asheville and A-B Tech, so it is part of our charge. He noted one conflict is with Goal 4 of the Transportation and Land Use Plan and the Harris Teeter property on Merrimon Avenue. Goal 4 reads "The City should revise its development standards for primary corridors to ensure that the corridors are developed in an urban manner."

Ms. Mathews felt that urban needs to be defined by the character of corridor. Also, she felt that the term "corridor" should be defined as well.

Mr. Minicozzi then showed a map out of the 2025 Plan showing the different corridors. He stressed that the Planning Commission should be paying attention to this map when rezoning in the Urban Place District or urban core area come to their attention. The different context of corridors can be identified through a small area plan, similar to the Haywood Road Corridor Plan. He questioned what the plan will be to handle all the other corridors, noting that they will have to look at each corridor on a case by case basis.

Planning & Development Director Judy Daniel explained that the Haywood Road community had a vision for Haywood Road. They worked on that vision for over three years, coming up with the Haywood Road Corridor Plan.

Mr. Minicozzi noted that in their charge they can ask City Council for consulting help or planning studies; however, he felt the City did not have revenue sources at this time so we will

have to think creatively. Ms. Daniel suggested the Commission wait to approach City Council for a couple of months due to budget issue so they can focus on the broader issue.

Ms. Shriner wondered if there are other corridors, similar to the working group in west Asheville, that already have in place an established vision and working group. She felt we could focus on those corridors first.

When Ms. Carter asked how we can bring this conversation back to the front of Council, Ms. Daniel said that we will need to start revisiting the 2025 Plan in a couple years, but a good way to start is to host some visioning meetings in different areas of the community.

In order to continue this discussion, Mr. Minicozzi (with input from the rest of the Commission) felt we still needed the following maps (1) taxable vs. non-taxable land map; (2) Industrial vs. Commercial Industrial zoning inventory and capacity; (3) vacant lands map; (4) land value exceeding building value map; (5) brownfields map (which is available through the Land-of-Sky Regional Council); (5) slope/grade mapping; (6) river/creek/wetland map - environmental issues; (7) National Register of Historic Districts map; (8) plan of future facilities in the City for Buncombe County use. He will work with Ms. Daniel on obtaining these maps.

Mr. Minicozzi then outlined the following suggested Planning & Zoning Commission work sessions, with the City Council Planning & Economic Development Committee (feedback and approach; develop approach for zoning amendments; recommendations for campus plans from UNC-Asheville, A-B Tech, Mission Hospitals and Buncombe County; amend 2025 Plan to reflect legislation) being the first step. Followed in no particular order by (1) Sustainable Advisory Committee for Energy & the Environment; (2) N. C. Dept. of Transportation local division for Buncombe County for complete streets discussion; (3) Parks/Greenways; and (4) Buncombe County Health Department (transportation planning and public health); and (5) Neighborhood Advisory Committee.

Mr. Minicozzi understood that all of the Commission has busy schedules, but would be willing to continue to work on this project. Ms. Carter said that she would be willing to continue working with Mr. Minicozzi on this project as well. Mr. Minicozzi recommended the Commission get before the City Council Planning & Development Committee first so they don't overstep their charge.

When Mr. Minicozzi felt that the recommendations on corridors are a good way to get ahead of conflicts, Ms. Shriner questioned how many corridors have working groups. Ms. Daniel said that the only working groups she is aware of are on Haywood Road, on Tunnel Road, the West End/Clingman Avenue area, and the East/West Asheville Neighborhood Association. Ms. Shriner asked for a list of the working groups.

Ms. Mathews wondered if there is a model that we can use to bring people together to have discussion.

Ms. Carter said that as more issues come before the Commission, these issues will become more important. Part of the key is a staff person to devote the time necessary for community outreach. That needs to be introduced into the conversation as well.

It was the consensus of the Commission that the next step be to have Ms. Daniel meet with Ms. Carter and Mr. Minicozzi (and others if they wish) to talk about where the research is so far, where the critical points are, and what might be the best thing for the Commission to focus on, knowing it will be a couple of months before they go to the City Council Planning & Development Committee.

Ms. Daniel said that the Investment District proposal also plays into this and she will present that to the Commission at their June meeting which may be a good springboard to bring this to Council.

Other Business

Chairman Cannady announced the next meeting on June 5, 2013, at 5:00 p.m. in the First Floor Conference Room in the City Hall Building.

Adjournment

At 8:08 p.m., Vice-Chairman Goldstein moved to adjourn the meeting. This motion was seconded by Chairman Cannady and carried unanimously.